FILED

UNITED STATES COURT OF APPEALS

FEB 22 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

RANDALL GEORGE ANGEL,	No. 05-16076
Plaintiff - Appellant,	D.C. No. CV-05-00182-HDM
v.	
DENNIS BALAAM; et al.,	MEMORANDUM [*]
Defendants - Appellees.	

Appeal from the United States District Court
for the District of Nevada
Howard D. McKibben, District Judge, Presiding

Submitted February 13, 2006 [**]

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Randall George Angel appeals pro se from the district court's judgment

dismissing for failure to state a claim pursuant to 28 U.S.C. § 1915 his 42 U.S.C.

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[*]   This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

[**]   The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1983 action alleging defendants violated his due process rights by denying his access to public records under Nevada state law. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order), and we affirm.

The district court correctly found that Angel had previously presented the instant claims in another action, *Angel v. Balaam*, No. CV-N-04-0394-ECR-RAM, which it dismissed for failure to state a claim. Accordingly, the district court properly dismissed this action, because it is barred by res judicata. *See Franklin v. Murphy,* 745 F.2d 1221, 1230 (9th Cir. 1984) (action barred by res judicata can be dismissed as frivolous under 28 U.S.C. § 1915); *see also Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005) (doctrine of res judicata serves to bar a claim where there is an identity of claims, a final judgment on the merits and an identity of parties); *Stewart v. U.S. Bancorp*, 297 F.3d 953, 957 (9th Cir. 2002) (dismissal for failure to state a claim is a "judgment on the merits" to which res judicata applies).

AFFIRMED